

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

ROBERT R. TOLAN, MARIAN TOLAN,	§	
BOBBY TOLAN, AND ANTHONY COOPER,	§	
	§	
	§	
Plaintiffs,	§	
	§	
VS.	§	CIVIL ACTION H-09-1324
	§	
JEFFREY WAYNE COTTON, JOHN C.	§	
EDWARDS, RANDALL C. MACK, BYRON	§	
HOLLOWAY, CYNTHIA SIEGEL,	§	
BERNARD SATTERWHITE, THE CITY OF	§	
BELLAIRE, and THE BELLAIRE	§	
POLICE DEPARTMENT,	§	
	§	
Defendants.	§	

ORDER

Pending before the Court in the above referenced case are Plaintiffs' objection to Defendants' bill of costs<sup>1</sup> and motion to stay taxation of costs pending any appeal (Instrument #85) and motion for review of Clerk's taxation of costs (#93).

Apparently the Clerk of the Court entered costs requested by Defendants Jeffrey Cotton ("Cotton") and John Edwards ("Edwards"), who were granted final summary judgment based on qualified immunity<sup>2</sup> against Plaintiffs Robert R. Tolan, Marian Tolan, Bobby,

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<sup>1</sup> The bill of costs (#84) requested costs be assessed against Plaintiffs in the amount of \$6,755.54. The Clerk entered costs in that amount on May 1, 2012.

<sup>2</sup> Corrected Memorandum and Order (#83) and Amended Final Summary Judgment (#88) awarding costs and made final under Rule 54(b). The instant action remains pending against the City of

Tolan, and Anthony Cooper, even though the objection to the bill of costs had been filed and the Court had not yet addressed it. Thus the motion for review is warranted. Defendants have not responded to the objections or to the motion for review.

Plaintiffs argue that the bill of costs should be denied because Cotton and Edwards failed to satisfy their burden of establishing and verifying that the costs were necessarily incurred for use in this litigation. To the extent that the Court finds that the requested costs are taxable, they also ask the Court to stay taxation of any costs pending the outcome of any appeal. Plaintiffs did file a notice of appeal (#87) on April 27, 2012, and then an amended notice of appeal (#89) on May 1, 2012 after the Court issued an amended final judgment (#88).

Because there may have been confusion about this Court's jurisdiction and because Plaintiffs have raised some specific objections to the bill of costs, the Court

ORDERS that Cotton and Edwards shall file a response to the objection within ten days of receipt of this order.

SIGNED at Houston, Texas, this 11<sup>th</sup> day of June, 2012.

  
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MELINDA HARMON  
UNITED STATES DISTRICT JUDGE

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Bellaire.